

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

DAVID LENT

Plaintiff

vs.

**STATE AUTO PROPERTY AND
CASUALTY INSURANCE COMPANY**

Defendant

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CIVIL ACTION NO. 5:17-cv-454

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to 28 U.S.C. §§1441(a), 1446 and 1332(a), State Auto Property and Casualty Insurance Company (hereinafter “State Auto”), submits this Notice of Removal, based on diversity jurisdiction, to the United States District Court for the Western District of Texas, San Antonio Division, of the action styled *David Lent vs. State Auto Property and Casualty Insurance Company*, and in support thereof, would respectfully show this Court as follows:

I. Introduction

1.1 Plaintiff is David Lent (hereinafter “Plaintiff”); Defendant is State Auto Property and Casualty Insurance Company (hereinafter “State Auto”).

1.2 Plaintiff is the owner of property located at 107 Laramie Drive, San Antonio, Texas 78209. Plaintiff’s causes of action herein related to alleged hail damage to Plaintiff’s property and State Auto’s adjustment of a claim related to the same..

1.3 On or about April 25, 2017, Plaintiff sued Defendant in a suit styled *David Lent vs. State Auto Property and Casualty Insurance Company*, Cause Number 2017C107537, in the

225th Judicial District Court of Bexar County, Texas and alleged, through various causes of action, that State Auto breached its contract of insurance with Plaintiff, violated various provisions of the Texas Insurance Code, violated the Texas Deceptive Trade Practices Act, committed common law bad faith, engaged in unfair insurance practices, and committed said violations of the insurance code knowingly.

1.4 On or about May 22, 2017, Defendant State Auto filed an Original Answer, Special Denials, Affirmative Defenses, Special Exceptions, Request for Disclosure, Rule 193.7 Notice, and Jury Demand in response to Plaintiff's Original Petition in state court.

1.5 Defendant State Auto files this notice of removal within the 30-day time period required by 28 U.S.C. §1446(b)(3) and within one year of commencement of the action.

II. Basis for Removal

2.1 Removal is proper because there is complete diversity between the current parties to the suit. 28 U.S.C. §1332(a); *Johnson v. Columbia Props. Anchorage, L.P.*, 437 F.3d 894, 899-900 (9th Cir. 2006). Plaintiff is a citizen and resident of the State of Texas. Defendant State Auto Property and Casualty Insurance Company is a citizen of Ohio, with its place of incorporation and principal place of business in Ohio.

2.2 Based upon the claims asserted by Plaintiff in Plaintiff's Original Petition filed in the underlying suit, it is believed, and Plaintiff has claimed an amount that exceeds \$75,000.00, excluding interest and costs. 28 U.S.C. §1332(a); *Andrews v. E.I. du Pont de Nemours & Co.*, 447 F.3d 510, 514-15 (7th Cir. 2006). Plaintiff's Original Petition expressly states that Plaintiff seeks monetary relief over \$100,000.00.

2.3 All pleadings, process, orders, and other filings in the State Court action are attached to this notice as Exhibit "A" for all purposes herein as required by 28 U.S.C. §1446(a).

2.4 Venue is proper in this district under 28 U.S.C. §1441(a) because the property made the subject of this suit is located in this district.

2.5 Defendant State Auto will promptly file a copy of this Notice of Removal with the clerk of the State Court where the action has been pending.

IV. Jury Demand

4.1 Plaintiff did demand a jury in the State Court action.

There is complete diversity between the current parties to the suit, and the amount in controversy exceeds \$75,000.00 Defendant State Auto Property and Casualty Insurance Company requests that the Court remove this action from the 225th Judicial District Court of Bexar County, Texas to the to the United States District Court for the Western District of Texas, San Antonio Division.

RESPECTFULLY SUBMITTED on this the 19th day of May, 2017.

/s/ Charles B. Mitchell, Jr.
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**ATTORNEYS FOR DEFENDANT
STATE AUTO PROPERTY AND
CASUALTY INSURANCE COMPANY**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing was served upon counsel of record for all parties in the manner listed below, in accordance with *Federal Rules of Civil Procedure* on the 19th day of May, 2017.

Via E-Filing

James M. McClenny
J. Zachary Moseley
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/s/ Charles B. Mitchell, Jr.
CHARLES B. MITCHELL, JR.